

AMENDED IN ASSEMBLY APRIL 30, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2029**

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**Introduced by Assembly Member Cooley**  
**(Coauthor: Assembly Member Dickinson)**

February 20, 2014

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An act to amend Sections 27491 and 27491.4 of, and to add Section 27491.42 to, the Government Code, ~~and to amend Section 13519.3 of the Penal Code,~~ relating to inquests.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2029, as amended, Cooley. Inquests: sudden—~~unexpected~~ *unexplained* death in childhood.

~~(1) Existing~~

~~Existing law states that findings and declarations of the Legislature finds and declares that sudden infant death syndrome (SIDS), as defined, is the leading cause of death for children under age one. Under existing law, the a coroner has a duty to inquire into and determine the circumstances, manner, and cause of, among other things, deaths where the suspected cause of death is sudden infant death syndrome. The coroner is required to perform an autopsy, within 24 hours or as soon thereafter as feasible, in any case where an infant has died suddenly and unexpectedly. The coroner is required to conduct the autopsy pursuant to protocols developed by the State Department of Public Health and is authorized to take tissue samples for research purposes from infants who have died suddenly and unexpectedly. The department is required to establish procedures and protocols for access by~~

~~researchers to any tissues, other materials, or data that is collected. Existing law authorizes a person to conduct research on those tissues, other materials, or data if he or she has a valid scientific purpose and receives prior approval from the State Committee for the Protection of Human Subjects. Under existing law, it is a misdemeanor for a funeral director, physician, or other person who has charge of a deceased person's body to not immediately notify the coroner if death occurred as a result of any of the causes or circumstances that the coroner has a duty to inquire into.~~

This bill would expand the duty of the coroner to also inquire into and determine the circumstances, manner, and cause of deaths where a child, who is one year of age or older but under 18 years of age, dies suddenly and unexpectedly or where the suspected cause of death is sudden ~~unexpected~~ *unexplained* death in childhood. This bill would define “sudden ~~unexpected~~ *unexplained* death in childhood” as the sudden death of a child one year of age or older but under 18 years of age that is ~~unexpected~~ *unexplained* by the history of the child and where a thorough postmortem examination fails to demonstrate an adequate cause of death. This bill would require the coroner to perform an autopsy within 24 hours or as soon thereafter as feasible in any case where a child has died suddenly and unexpectedly. ~~This bill would also require the coroner to conduct the autopsy pursuant to protocols developed by the department and would authorize the coroner to take tissue samples for research purposes from children who have died suddenly and unexpectedly. This bill would require the department to establish procedures and protocols for access by researchers to any tissues, other materials, or data that is collected, and would authorize a person to conduct research on those tissues, other materials, or data if he or she has a valid scientific purpose and receives prior approval from the State Committee for the Protection of Human Subjects.~~ This bill would *also* exempt the coroner from liability for damages in a civil action for any act or omission done in compliance with a specified statute.

By expanding the duties of a local agency and expanding the scope of an existing crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(2) Existing law requires the Commission on Peace Officer Standards and Training to establish a course on the nature of sudden infant death syndrome and the handling of cases involving the sudden deaths of infants. The commission is also required to prepare guidelines establishing standard procedures for the investigation of cases involving sudden deaths of infants.~~

~~This bill would require the commission to include information on sudden unexpected death in childhood in the established course and to prepare guidelines establishing standard procedures for the investigation of cases involving sudden and unexpected deaths of children.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 27491 of the Government Code is  
2 amended to read:  
3 27491. It ~~shall be~~ *is* the duty of the coroner to inquire into and  
4 determine the circumstances, manner, and cause of all violent,  
5 sudden, or unusual deaths; unattended deaths; deaths ~~where if~~ the  
6 deceased has not been attended by either a physician or a registered  
7 nurse, who is a member of a hospice care interdisciplinary team,  
8 as defined by subdivision ~~(e)~~ (g) of Section 1746 of the Health and  
9 Safety Code in the 20 days before death; deaths related to or  
10 following known or suspected self-induced or criminal abortion;  
11 known or suspected homicide, suicide, or accidental poisoning;  
12 deaths known or suspected as resulting in whole or in part from  
13 or related to accident or injury either old or recent; deaths due to  
14 drowning, fire, hanging, gunshot, stabbing, cutting, exposure,  
15 starvation, acute alcoholism, drug addiction, strangulation,  
16 aspiration, or ~~where if~~ the suspected cause of death is sudden infant  
17 death syndrome; deaths where a child, who is one year of age or  
18 older but under 18 years of age, dies suddenly and unexpectedly,  
19 or where the suspected cause of death is sudden ~~unexpected~~  
20 *unexplained* death in childhood; death in whole or in part  
21 occasioned by criminal means; deaths associated with a known or

1 alleged rape or crime against nature; deaths in prison or while  
2 under sentence; deaths known or suspected as due to contagious  
3 disease and constituting a public hazard; deaths from occupational  
4 diseases or occupational hazards; deaths of patients in state mental  
5 hospitals serving the mentally disabled and operated by the State  
6 Department of State Hospitals; deaths of patients in state hospitals  
7 serving the developmentally disabled and operated by the State  
8 Department of Developmental Services; deaths under such  
9 circumstances as to afford a reasonable ground to suspect that the  
10 death was caused by the criminal act of another; and any deaths  
11 reported by physicians or other persons having knowledge of death  
12 for inquiry by coroner. Inquiry pursuant to this section does not  
13 include those investigative functions usually performed by other  
14 law enforcement agencies.

15 In any case in which the coroner conducts an inquiry pursuant  
16 to this section, the coroner or a deputy shall personally sign the  
17 certificate of death. If the death occurred in a state hospital, the  
18 coroner shall forward a copy of his or her report to the state agency  
19 responsible for the state hospital.

20 The coroner shall have discretion to determine the extent of  
21 inquiry to be made into any death occurring under natural  
22 circumstances and falling within the provisions of this section, and  
23 if inquiry determines that the physician of record has sufficient  
24 knowledge to reasonably state the cause of a death occurring under  
25 natural circumstances, the coroner may authorize that physician  
26 to sign the certificate of death.

27 For the purpose of inquiry, the coroner shall have the right to  
28 exhume the body of a deceased person when necessary to discharge  
29 the responsibilities set forth in this section.

30 Any funeral director, physician, or other person who has charge  
31 of a deceased person's body, when death occurred as a result of  
32 any of the causes or circumstances described in this section, shall  
33 immediately notify the coroner. Any person who does not notify  
34 the coroner as required by this section is guilty of a misdemeanor.

35 SEC. 2. Section 27491.4 of the Government Code is amended  
36 to read:

37 27491.4. (a) For purposes of inquiry the coroner shall, within  
38 24 hours or as soon as feasible thereafter, where the suspected  
39 cause of death is sudden infant death syndrome or sudden

40 ~~unexpected~~*unexplained* death in childhood, and, in all other cases,

1 the coroner may, in his or her discretion, take possession of the  
2 body, which shall include the authority to exhume the body, order  
3 it removed to a convenient place, and make or cause to be made  
4 a postmortem examination or autopsy thereon, and make or cause  
5 to be made an analysis of the stomach, stomach contents, blood,  
6 organs, fluids, or tissues of the body. The detailed medical findings  
7 resulting from an inspection of the body or autopsy by an  
8 examining physician shall be either reduced to writing or  
9 permanently preserved on recording discs or other similar recording  
10 media, shall include all positive and negative findings pertinent to  
11 establishing the cause of death in accordance with medicolegal  
12 practice and this, along with the written opinions and conclusions  
13 of the examining physician, shall be included in the coroner's  
14 record of the death. The coroner shall have the right to retain only  
15 those tissues of the body removed at the time of the autopsy as  
16 may, in his or her opinion, be necessary or advisable to the inquiry  
17 into the case, or for the verification of his or her findings. No  
18 person may be present during the performance of a coroner's  
19 autopsy without the express consent of the coroner.

20 (b) In any case in which the coroner knows, or has reason to  
21 believe, that the deceased has made valid provision for the  
22 disposition of his or her body or a part or parts thereof for medical  
23 or scientific purposes in accordance with Chapter 3.5 (commencing  
24 with Section 7150) of Part 1 of Division 7 of the Health and Safety  
25 Code, the coroner shall neither perform nor authorize any other  
26 person to perform an autopsy on the body unless the coroner has  
27 contacted or attempted to contact the physician last in attendance  
28 to the deceased. If the physician cannot be contacted, the coroner  
29 shall then notify or attempt to notify one of the following of the  
30 need for an autopsy to determine the cause of death: (1) the  
31 surviving spouse; (2) a surviving child or parent; (3) a surviving  
32 brother or sister; (4) any other kin or person who has acquired the  
33 right to control the disposition of the remains. Following a period  
34 of 24 hours after attempting to contact the physician last in  
35 attendance and notifying or attempting to notify one of the  
36 responsible parties listed above, the coroner may perform or  
37 authorize the performance of an autopsy, as otherwise authorized  
38 or required by law.

39 (c) Nothing in this section shall be deemed to prohibit the  
40 discretion of the coroner to conduct autopsies upon any victim of

1 sudden, unexpected, or unexplained death or any death known or  
2 suspected of resulting from an accident, suicide, or apparent  
3 criminal means, or other death, as described in Section 27491.

4 SEC. 3. Section 27491.42 is added to the Government Code,  
5 to read:

6 27491.42. (a) For purposes of this article, “sudden~~unexpected~~  
7 *unexplained* death in childhood” means the sudden death of a child  
8 one year of age or older but under 18 years of age that is  
9 ~~unexpected~~ *unexplained* by the history of the child and where a  
10 thorough postmortem examination fails to demonstrate an adequate  
11 cause of death.

12 (b) The Legislature finds and declares all of the following:

13 (1) Sudden~~unexpected~~ *unexplained* death in childhood accounts  
14 for 1.2 deaths out of every 100,000 children.

15 (2) Most deaths from sudden~~unexpected~~ *unexplained* death in  
16 childhood occur between one year of age and three years of age,  
17 but researchers have studied cases of children as old as 15 years  
18 of age.

19 (3) Sudden~~unexpected~~ *unexplained* death in childhood cannot  
20 be predicted or prevented because the cause of sudden~~unexpected~~  
21 *unexplained* death in childhood is unknown.

22 (4) The public interest is served by research and study of sudden  
23 ~~unexpected~~ *unexplained* death in childhood, and its potential causes  
24 and indications.

25 (c) (1) To facilitate these purposes, the coroner shall, within  
26 24 hours, or as soon thereafter as feasible, perform an autopsy in  
27 any case where a child, who is one year of age or older but under  
28 18 years of age, has died suddenly and unexpectedly.

29 (2) However, if the attending physician desires to certify that  
30 the cause of death is sudden~~unexpected~~ *unexplained* death in  
31 childhood, an autopsy may be performed at the discretion of the  
32 coroner. If the coroner performs an autopsy pursuant to this section,  
33 he or she shall certify the cause of death.

34 ~~(d) The autopsy shall be conducted pursuant to a standardized~~  
35 ~~protocol developed by the State Department of Public Health. The~~  
36 ~~protocol is exempt from procedural requirements pertaining to the~~  
37 ~~adoption of administrative rules and regulations pursuant to Article~~  
38 ~~5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of~~  
39 ~~Division 3 of Title 2 of the Government Code. The protocol shall~~  
40 ~~be developed and approved by January 1, 2016.~~

1 ~~(e) The protocol shall be followed by all coroners throughout~~  
2 ~~the state when conducting autopsies required by this section. The~~  
3 ~~coroner shall state on the certificate of death that sudden~~  
4 ~~unexpected death in childhood was the cause of death when the~~  
5 ~~coroner's findings are consistent with the definition of sudden~~  
6 ~~unexpected death in childhood specified in the standardized autopsy~~  
7 ~~protocol. The protocol may include requirements and standards~~  
8 ~~for scene investigations, requirements for specific data, criteria~~  
9 ~~for ascertaining cause of death based on the autopsy, criteria for~~  
10 ~~any specific tissue sampling, and any other requirements. The~~  
11 ~~protocol may also require that specific tissue samples be provided~~  
12 ~~to a central tissue repository designated by the State Department~~  
13 ~~of Public Health.~~

14 ~~(f) The State Department of Public Health shall establish~~  
15 ~~procedures and protocols for access by researchers to any tissues~~  
16 ~~or other material, or data authorized by this section. Research may~~  
17 ~~be conducted by an individual with a valid scientific interest and~~  
18 ~~prior approval from the State Committee for the Protection of~~  
19 ~~Human Subjects. The tissue samples, the materials, and all data~~  
20 ~~shall be subject to the confidentiality requirements of Section~~  
21 ~~103850 of the Health and Safety Code.~~

22 ~~(g)~~

23 ~~(d) The coroner may take tissue samples for research purposes~~  
24 ~~from children who have died suddenly and unexpectedly without~~  
25 ~~consent of the responsible adult if the tissue removal is not likely~~  
26 ~~to result in any visible disfigurement. The coroner shall notify the~~  
27 ~~parent or responsible adult of the child about the importance of~~  
28 ~~taking tissue samples.~~

29 ~~(h)~~

30 ~~(e) A coroner shall not be liable for damages in a civil action~~  
31 ~~for any act or omission in compliance with this section.~~

32 ~~(i)~~

33 ~~(f) The consent of any person is not required prior to undertaking~~  
34 ~~the autopsy required by this section.~~

35 ~~SEC. 4. Section 13519.3 of the Penal Code is amended to read:~~

36 ~~13519.3. (a) Effective July 1, 1990, the commission shall~~  
37 ~~establish, for those peace officers specified in subdivision (a) of~~  
38 ~~Section 13510 who are assigned to patrol or investigations, a course~~  
39 ~~on the nature of sudden infant death syndrome and sudden~~  
40 ~~unexpected death in childhood, and the handling of cases involving~~

1 the sudden deaths of infants and the sudden unexpected deaths of  
2 children. The course shall include information on the community  
3 resources available to assist families and child care providers who  
4 have lost a child to sudden infant death syndrome and sudden  
5 unexpected death in childhood. Officers who are employed after  
6 January 1, 1990, shall complete a course in sudden infant death  
7 syndrome and sudden unexpected death in childhood prior to the  
8 issuance of the Peace Officer Standards and Training basic  
9 certificate, and shall complete training on those topics on or before  
10 July 1, 1992.

11 (b) The commission, in consultation with experts in the field of  
12 sudden infant death syndrome and sudden unexpected death in  
13 childhood, shall prepare guidelines establishing standard  
14 procedures which may be followed by law enforcement agencies  
15 in the investigation of cases involving sudden deaths of infants  
16 and sudden unexpected deaths of children.

17 (c) The course relating to sudden infant death syndrome and  
18 sudden unexpected death in childhood, and the handling of cases  
19 of sudden infant deaths and sudden unexpected deaths of children  
20 shall be developed by the commission in consultation with experts  
21 in the field of sudden infant death syndrome and sudden unexpected  
22 death in childhood. The course shall include instruction in the  
23 standard procedures developed pursuant to subdivision (b). In  
24 addition, the course shall include information on the nature of  
25 sudden infant death syndrome and sudden unexpected death in  
26 childhood, which shall be taught by experts in the field of sudden  
27 infant death syndrome and sudden unexpected death in childhood.

28 (d) The commission shall review and modify the basic course  
29 curriculum to include sudden infant death syndrome and sudden  
30 unexpected death in childhood awareness as part of death  
31 investigation training.

32 (e) When the instruction and training are provided by a local  
33 agency, a fee shall be charged sufficient to defray the entire cost  
34 of instruction and training.

35 SEC. 5.

36 SEC. 4. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution for certain  
38 costs that may be incurred by a local agency or school district  
39 because, in that regard, this act creates a new crime or infraction,  
40 eliminates a crime or infraction, or changes the penalty for a crime



1 or infraction, within the meaning of Section 17556 of the  
2 Government Code, or changes the definition of a crime within the  
3 meaning of Section 6 of Article XIII B of the California  
4 Constitution.

5 However, if the Commission on State Mandates determines that  
6 this act contains other costs mandated by the state, reimbursement  
7 to local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.

O